



May 14, 2019

Honorable Paul Krekorian
Council District 2
Chairman, Budget and Finance Committee

Curren Price, Council Member
Council District 9

Bob Blumenfield, Council Member
Council District 3

Paul Koretz, Council Member
Council District 12

Mike Bonin, Council Member
Council District 11

CC: Director Cat Packer, Department of Cannabis Regulation; City Attorney Michael Feuer; President Herb. J. Wesson, Jr., President of the Los Angeles City Council; Councilmember, Gilbert Cedillo, Councilmember David E. Ryu, Councilmember Nury Martinez, Councilmember Monica Rodriguez, Councilmember Marqueece Harris-Dawson, Councilmember Mike Bonin, Councilmember Mitch O'Farrell, Councilmember Jose Huizar, Councilmember Joe Buscaino

Re: Cannabis Revenue

Honorable Finance Chairperson Krekorian,

The Equity First LA Coalition appreciates the funding and resources included in the Fiscal Year (FY) 2019-20 Proposed Budget by the Mayor of Los Angeles. Our coalition recognizes the Mayor and his budget team for recommending the allocation of key resources needed to continue the Department of Cannabis Regulation's licensing and compliance programs for authorized commercial cannabis businesses, as well as new resources to begin implementation of the Department's social equity, public education, and outreach programs.

After a comprehensive analysis of the Mayor's proposed budget, several questions remain, and our coalition agrees that as part of the civic engagement process, we must make the following recommendations that reflect and address the needs of the local community. Our efforts are in line with the local community's request to create a better society that centers the livelihoods of the most marginalized communities of Los Angeles and that aligns with current legislation, set forth by voters through LA's 2017 Measure M and the City's 2018 cannabis licensing ordinance.

Our recommendations for the budget are as follows:

· Fund the additional 2.5 million requested by the Department of Cannabis Regulation in a timely manner to ensure the SEP has the necessary infrastructure.

· Full transparency in cannabis-related budget allocations to ensure that the tax revenue generated from the cannabis industry does not disappear; we must see where the money goes. Looking at the proposed budget, there is no information about where the over \$40 million in cannabis tax revenues will be allocated. Most critically, we want to ensure that these funds are allocated to the community and not to police.

· A minimum of 25% of the total revenue of cannabis taxes must be allocated to community reinvestment, and these funds must rollover year to year. This will support a more equitable approach to the industry by providing pathways for individuals and communities that have been harmed by the War on Drugs to benefit from the cannabis industry and providing desperately needed resources to whole communities that have been devastated by war on drugs law enforcement.

· Page 58 in the proposed budget does not show an allocation of funds for Public Education and Fee Deferrals. We want to ensure that these two sections do not get lost. We request continuous annual allocations of \$2 million for public education and \$3 million for fee deferrals. These funds must be disbursed in a timely manner.

· As we understand it, the City's General Fund received approximately \$53 million dollars in cannabis tax revenue in 2018-19, and less than \$2 million was allocated to the social equity program. That ratio is unacceptable, insulting, and runs counter to the will of the voters. The tax revenue will increase in 2019-20, and we want to ensure that a significant portion of these revenues will be allocated to the social equity program, for reasons stated above, and to a specific fund (**Community Health and Reinvestment Fund**) that will support nonprofit organizations to provide lifesaving services to individuals and communities who have been affected by the War on Drugs.

If you require additional information, please do not hesitate to contact our coalition chair at (818) 428-5821.

Sincerely,

Equity First LA Coalition:

Adam Vine, co-founder, Cage-Free Cannabis and Cage-Free Repair

Bamby Salcedo, President & CEO, The Trans Latin@ Coalition

Bonita Money, co-founder, National Diversity and Inclusion Cannabis Alliance (NDICA)

Brandie Cross PhD, co-founder The Pot Lab/Smart Pharm Research Group

Fanny Guzman, co-founder Latinos for Cannabis

Felicia Carbajal, co-founder California Cannabis Advocates, Chair Equity First Coalition

Joseph Pettit, Policy & Program Coordinator, Los Angeles Regional Reentry Partnership

Jorge Nuno, Founder/Curator of The Big House

Kevin Al Perez, co-founder, Somos Familia Valle

Kika Keith, Founder, Life Development Group

Kristen Lovell, Associate Director, The Social Impact Center

Lauren Kruz, co-founder Tree Femme Collective and Equity First Alliance (National)

Life Griffith, Executive Director Veterans Health Solutions

Lynne Lyman, co-author and co-chair of Proposition 64

Maha Haq, co-founder CannaClub UCLA

Marlin Medrano, co-founder San Fernando Valley Cannabis Coalition

Oscar Aguayo, co-founder & President, Conaxion Inc.

Employment Discrimination & L.A.'s Civil and Human Rights Ordinance

May 2019

LOCAL ENFORCEMENT NOW CAMPAIGN OBJECTIVES

- The Los Angeles City Council voted to pass the Civil and Human Rights Ordinance. Now, will the Budget and Finance Committee vote to fund an efficient and effective Commission? We urge the Committee to allocate additional funding for the Commission and offer the following suggestions:

○ **It is Time for Los Angeles to Join the Ranks.**

Other major cities across the United States already locally enforce state laws prohibiting employment discrimination and have a strong budget for their local ordinances. These include New York City, Philadelphia, Baltimore, Austin, Tulsa, Jacksonville, Minneapolis, and Seattle.

For example:

- The 2018 budget for New York's Commission on Human Rights was 14.7 million dollars.
- The 2018 budget for Seattle's Office of Civil Rights was \$5,093,114.
- The 2017/2018 budget for San Francisco's Human Rights Commission/ Office of Labor Standards Enforcement (OLSE) was \$2,509,244.

It is time for Los Angeles to join the ranks and expand discrimination protection for all workers. The City of Los Angeles' estimated workforce is four times that of San Francisco's therefore we need a robust budget to meet our city's needs.

○ **Without the Expansion of Employment Discrimination Protection Black Workers Risk Losing Millions of Dollars Due to Rampant Employment Discrimination.**

Currently, over half of the Black population in Los Angeles are either unemployed or underemployed. Black workers continue to be under-represented in and excluded from well-paying jobs with benefits. Employment discrimination not only violates federal and state EEO laws but it excludes Black workers from the regional economy and cost Black workers millions of dollars a year. Additionally, employment exclusion creates collateral consequences of instability in Los Angeles. This Ordinance would expand and remedy employment exclusion which creates a vibrant regional economy, addresses homelessness, and creates more money invested in Los Angeles in the long-term.

○ **Allocating Additional Funds Towards the Civil and Human Rights Commission Means Strong Discrimination Protection.**

The current Civil and Human Rights Ordinance draft protects against discrimination in employment, housing, education, and commerce. Other cities that have a local ordinance, such as San Francisco, only focus on employment discrimination. It is safe to say that this Ordinance will cover a wide range of discrimination protections that other local ordinances do not cover. Approving the CAO's budget ensures that the

Ordinance will have capacity to handle the wide range of discrimination protection under its scope.

- **Allocating the City Administrative Office's (CAO) Full Annual Budget Means Hiring Enough Commissioners and City Attorney's to Enforce Discrimination Protection.**

Without the adequate number of commissioners and attorneys the Ordinance will be ineffective. The CAO reports that \$3,007,691 is needed for the hiring of 8 paid staff, 6 attorneys, and 15 volunteer commissioners. Allocating this budget will ensure that the Civil and Human Rights Commission has the capacity to interact with Los Angeles residents, educate the public about their local rights in order to garner respect amongst Los Angeles' many communities, and efficiently and promptly execute remedies for discrimination violations.

- **The City Must Become the Champion of Employment Discrimination Protections.**

Under the Trump administration, we are seeing a reversal of civil rights protections. President Trump has proposed dramatic budget cuts to federal labor standards and civil rights enforcement, including the elimination of over hundreds of investigator positions at the EEOC and the Department of Labor. In addition, there is an overwhelming amount of employment discrimination complaints filed with the DFEH each year. Without local enforcement, employee complaints are going unaddressed.

For more information, contact Mindy Garland @ Los Angeles Black Worker Center:
mgarland@lablackworkercenter.org



**LOS ANGELES
BLACK WORKER
CENTER**

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(323) 752-7287
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May 16, 2019

Honorable Members of the City Council Budget and Finance Committee
c/o Andrew Choi, City Clerk
200 N. Spring Street, Room 340
Los Angeles, CA 90012

Re: Council File 18-0086, "Los Angeles's Civil and Human Rights Ordinance" Ordinance No. 186084

Dear Honorable Members,

We are disappointed to see the Mayor's proposed budget for the City's new Civil and Human Rights Commission, which lacks sufficient funding to make a discrimination free Los Angeles a reality. We respectfully request your approval of additional funding for the 2019-2021 fiscal period.

BACKGROUND

On May 8, 2019, the Council voted to formally enact the Civil and Human Rights Ordinance (CHRO) and the Civil and Human Rights Commission (the "Commission") as the agency responsible for administration and enforcement.

STAFFING AND RESOURCES

According to the City Administrative Officer's report dated February 1, 2019 (see Attachment 1,) the Commission will need approximately 25 positions and an outreach plan of \$250,000 annually to successfully administer CHRO and educate the community about the new policy. Additionally, we envision the Commission to focus on the following four components to be effective during its beginning years:

1. Informing the Community Through a Robust Community and Outreach Plan
2. Intake of Concerns
3. Investigation of Discrimination Complaints
4. Implementation of Remedies for Corrective Actions

These components ensure that CHRO provides strong and fair enforcement of discrimination violations. These components however, need an equally strong and fair budget to achieve these claims. As of now, these components cannot be achieved through the current proposed budget of \$500,000. ***We ask for a scaled up budget of 3 million dollars over three years to establish a strong Commission.***

A STRONG BUDGET MATCHES THE SCALE OF THE PROBLEM

Members of the Los Angeles Black Worker Center and various community, worker-side, and faith-based organizations help workers find resources when they face employment discrimination or other forms of discrimination, and we know that *this investment matches the scale of the problem.*

Although Black people make up less than 9 percent of the population in Los Angeles, fifty percent of Black people residing in Los Angeles are unemployed or underemployed due to discrimination. Studies show that racial discrimination remains a key force in the labor market. In a 2004 study, “Are Emily and Greg more employable than Lakisha and Jamal: A Field Experiment on Labor Market Discrimination,” researchers randomly assigned names and quality to resumes and sent them to over 1,300 employment advertisements.¹ Their results revealed significant differences in the number of callbacks each resume received based on whether the name sounded white or African American. More recent research indicates that this bias persists. A study from 2013 submitted fake resumes of nonexistent recent college graduates through online job applications for positions based in Atlanta, Baltimore, Portland, Oregon, Los Angeles, Boston, and Minneapolis. African-Americans were 16% less likely to get called in for an interview.² Similarly, a 2017 meta-analysis of field experiments on employment discrimination since 1989 found that white Americans applying for jobs receive on average 36% more callbacks than African Americans and 24% more callbacks than Latinos. Employment outcomes also vary between immigrant groups from different regions. A 2007 study found that immigrants from Latin America and the Caribbean earned an average hourly wage rate of \$14, compared to \$24 among other immigrants, and \$20.4 for non-immigrants.³

In a research brief published in 2017, *Ready to Work, Uprooting Inequity: Black Workers in California*,⁴ the experience of the Black community in California through a labor and employment lens is explored. This report is based on an analysis of the current and historical census data of Black workers in Los Angeles County. Among other findings, the study finds:

- Since the 1980s, the Black population in Los Angeles has declined by over 100,000 residents from 13% to 8% while the Inland Empire has gained over 250,000 Black residents
- Black workers with a high school or less education experience unemployment at almost double the rate as white workers at the same education level.
- Black workers are underrepresented in professional jobs and have lower rates in manager and supervisory positions.
- Whether working full or part time, Black workers earn only three-quarters of what white workers earn. For Black women, the wage gap is even more severe.
- Black workers experience a myriad of negative health outcomes due to racial discrimination in employment

¹ Source: http://www2.econ.iastate.edu/classes/econ321/Orazem/bertrand_emily.pdf

² Source: <http://fortune.com/2014/11/04/hiring-racial-bias/>

³ Source:

https://www.researchgate.net/publication/4997293_How_Do_Migrants_from_Latin_America_and_the_Caribbean_Fare_in_the_US_Labour_Market

⁴ Source: <https://www.labor.ucla.edu/publication/ready-to-work-uprooting-inequity-black-workers-in-los-angeles-county/>

CHRO rights the past wrongs of Los Angeles by remedying discrimination violations at the local level. Systemic racism prevents many under-represented workers from well-paying and quality jobs. Additionally, systemic racism and employment discrimination leads to high-rates of homelessness in Los Angeles due to the lack of access to quality jobs. CHRO rights past wrongs to ensure the City is creating a discrimination free Los Angeles for all workers! This is why we are requesting additional funding for this Commission.

THE CIVIL AND HUMAN RIGHTS COMMISSION WILL PAY FOR ITSELF OVER TIME

Finally, we believe investing in discrimination protection pays for itself by recovering lost tax revenue from rampant discrimination and fueling the local economy by ensuring family sustainable jobs for residents of Los Angeles.

COMMUNITY OUTREACH AND EDUCATION EFFORTS ARE VITAL

Community outreach and education efforts through community organizations ensure successful investigations and community involvement. Enforcing labor rights is impossible in a climate of ignorance and fear. Black workers, immigrants, women, and other workers of color are disproportionately impacted by discrimination and need to know that CHRO exists.

REQUEST

- A. We request that you provide additional funding for a three-year period for the establishment and implementation of the Commission.
- B. Authorize position authority and funding for the Commission similar to the funding provided to start the Office of Wage Standards (please see Attachment 2 and 3.)

For all these reasons, the Los Angeles Black Worker Center request additional funding for CHRO and the Commission. Thank you for your consideration.

Sincerely,

Janel Bailey
Co- Director
Los Angeles Black Worker Center

Mindy Garland
Lead Organizer
Los Angeles Black Worker Center

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REPORT FROM

OFFICE OF THE CITY ADMINISTRATIVE OFFICER

Date: February 1, 2019

CAO File No. 0220-05561-0000

Council File No. 18-0086

Council District: Citywide

To: The Council

From: Richard H. Llewellyn, Jr., City Administrative Officer

Reference: Communication from the Chair and Vice Chair, Immigrant Affairs, Civil Rights, and Equity Committee approved by Council on November 28, 2018

Subject: **INITIAL IMPLEMENTATION AND ESTIMATED FULL-YEAR COST FOR THE CIVIL AND HUMAN RIGHTS COMMISSION**

RECOMMENDATION

That the Council receives and files this report as it is for informational purposes only in response to the Communication from the Chair and Vice Chair, Immigrant Affairs, Civil Rights, and Equity Committee (C.F. 18-0086).

SUMMARY

On November 28, 2018, the Council adopted the Immigrant Affairs, Civil Rights, and Equity Committee Report which directed this Office to report on the initial implementation costs and necessary authorities for the proposed Civil and Human Rights Commission (Commission), including the estimated full year cost for the Commission. This Office has utilized the most relevant available data from other City departments and other cities to estimate the implementation and full-year costs for the Commission. This Office considered two scenarios for the estimated full-year costs based on whether State law relative to preemption is amended or if the current preemption policy is continued. The California Fair Employment and Housing Act (FEHA) contains a preemption clause which prohibits local enforcement of FEHA provisions. Under current law, the Commission would only be able to address discrimination complaints related to the four protected classes included in the proposed City Civil and Human Rights Law including: 1) citizenship status; 2) partnership status; 3) veteran status; and, 4) employment and income status. The cost estimates provided also include an estimate from the City Attorney relative to the staffing resources needed to provide the necessary legal support for the Commission. Additionally, this Office considered whether Administrative Law Judges (ALJs) or hearing officers would be utilized to conduct appeals hearings for the commission and a comparison of the estimated costs for ALJs and hearing officers is provided in this report.

This report provides details on the methodology and implications of these amounts and a breakdown of these costs is included in the attachments to this report. The table below provides a summary of these cost estimates:

Summary of Commission and City Attorney Cost Estimates

Staffing Scenario	Time Period	Total Positions	Total Position and Expense Cost
Commission Implementation	3 Months	4	\$ 237,768
Preemption:			
Commission	12 Months	8	\$ 1,814,822
City Attorney	12 Months	6.5	1,192,869
Preemption Total		14.5	\$ 3,007,691
Non-Preemption:			
Commission	12 Months	25	\$ 4,827,488
City Attorney	12 Months	29	4,909,585
Non-Preemption Total		54	\$ 9,737,073
Note: Total costs shown do not include costs for appeals hearings.			

BACKGROUND

This report provides the cost estimates for the initial three-month implementation, workload projections, full-year staffing, and appeal hearings. The three-month implementation cost is based on updated figures from the preliminary implementation costs this Office provided in July 2018 as included in a report from the Chief Legislative Analyst dated August 7, 2018 (C.F. 18-0086). Workload projections accounted for two scenarios relative to whether the State takes action to amend the preemption clause of FEHA. These projections were utilized to formulate the estimates for full year staffing and costs for the Commission and an estimate of the necessary support from the City Attorney under both preemption and non-preemption scenarios. This report also provides an estimated range for the number of appeals that would need hearings and a comparison of the costs for utilizing ALJs or hearing officers to address those appeals hearings.

The full implementation of the Commission will require additional information and approvals beyond those contemplated by this report. Should the Council decide to approve the Commission and position authorities, funding would need to be identified to support the authorized positions and related expenses. The 2018-19 Adopted Budget did not include funding for this purpose and the implementation of this Commission in the current fiscal year would require adjustments to existing expenditure appropriations or the allocation of new unbudgeted revenues.

The cost estimates provided in this report do not include any potential cost recovery from administrative penalties as it has not been decided how these penalties would be allocated or what standards will be applied for the levying of these penalties for various instances of discrimination. Additionally, the cost of any potential support from other City departments is not included in the estimates provided in this report as they have yet to be determined.

Estimates for Initial Implementation Staffing and Expense Costs

The preliminary cost estimate for initiating the creation of the Civil and Human Rights Commission (Commission) is \$243,203 and includes three-month costs for four positions with initial operating expenses. Additional cost detail is reflected in Attachment 1 to this report. These positions include an Executive Director, one Management Analyst, one Commission Executive Assistant, and one Administrative Clerk. These four positions would address start up activities, assist the Commission in the drafting of rules and regulations, and conduct other Commission work. The Executive Director would be responsible for coordinating with the Commissioners in development of the Commission's operational rules and regulations, refining estimates for the resources required to address the anticipated work of the Commission, and hiring and supervising the other staff members. The Management Analyst would assist the Executive Director with budget preparation for the Commission, any necessary reports, and general Commission administration. The Commission Executive Assistant would serve as a liaison between the Executive Director and the Commission, and provide logistical and administrative support to the Commissioners as needed to facilitate Commission meetings and related work. The Administrative Clerk would provide logistical and administrative support for the Executive Director and the Management Analyst. Additional refinement of the duties of these positions would be determined at a later date should they be approved. It is important to note that initiating this Commission on an interim basis would have an impact on the General Fund as the costs were not contemplated in the 2018-19 budget.

Preemption vs Non Preemption

Currently, the FEHA contains a preemption clause prohibiting local jurisdictions from enforcing the provisions of FEHA. On October 14, 2018, in a veto message to SB 491, the former Governor directed the DFEH to create an advisory group to explore allowing the enforcement of FEHA provisions by local jurisdictions and to prepare a report with findings and recommendations. In December 2018, the advisory group released its report on the issues and implications of removing or modifying the preemption clause of FEHA. The advisory group noted several scenarios relative to the modification of FEHA preemption including multiple scenarios with dual state and local enforcement of FEHA. The report did not provide specific recommendations for the modification of FEHA and it is up to the State Legislature how the FEHA preemption clause may be modified. Due to the uncertainty relative to FEHA preemption, this Office assumed two workload and full year Commission cost scenarios to provide a range of potential workload that the Commission would need to address. One scenario assumed preemption continues as is current law and the second assumed that local jurisdictions which elect to address employment and housing discrimination cases would take complete responsibility for the enforcement of FEHA within their respective jurisdictions. If the State takes action to modify FEHA preemption, it is likely that it will follow one of several dual State and local enforcement scenarios.

Full-Year Workload Estimates

This Office estimated the workload that the Commission may potentially address based on information from the California Department of Fair Employment and Housing (DFEH), the New York City Human Rights Commission, and demographic data from the California Employment

Development Department, United States Census Bureau, and the Pew Research Center. This estimates formed the basis for an estimation of the full-year cost of the Commission, specifically which position authorities and how many of those authorities would be required by the Commission. The workload estimates created by this Office are based on several assumptions due to a lack of available data and may be higher or lower than the complaint case load that the Commission would need to address. A detailed breakdown of the estimated workload and the assumption utilized to create this estimate is provided in Attachment 2 of this report.

Full-Year Staffing and Expense Costs

Based on the estimated workload and information from the DFEH on the annual caseload for its investigators, this Office estimates that four investigators would be needed to address Commission workload if FEHA preemption is unchanged and nineteen investigators if FEHA preemption is removed and enforcement is shifted to local jurisdictions. The staff estimates provided by this Office took into account the need for supervision of additional authorities and included additional authorities or advanced paygrades. In the non-preemption scenario this included the addition of one Senior Management Analyst I authority to assist in the Executive Director with the overall management of the Commission and provide supervision of the administrative functions of the Commission. It was assumed that the full year funding would begin at the beginning of 2019-20; however, this would be contingent on the timeline for initial implementation of the Commission and the adoption of rules and regulations governing the Commission. Additionally, the full year staffing figures referenced in this report are likely to be changed based on the investigatory needs stipulated by the rules and regulations of the Commission and assessments of the actual workload the Commission would address. The estimated costs for an outreach and education program related to the proposed Civil and Human Rights Law and leasing costs were included in the full-year cost estimates.

It should be noted that the cost estimates reflect Special Investigator positions to address the projected Commission caseload for budgetary purposes only. The specific position authorities most appropriate to address this workload would be determined by the Personnel Department and the Civil Service Commission. This determination would be based on the approved rules and regulations of the Commission that would specify how Commission investigations would be conducted. A detailed breakdown of the full year staffing projections and the assumptions used to formulate them is included in Attachment 3 for the preemption scenario and Attachment 4 for the non-preemption scenario.

Legal Support from the City Attorney

The City Attorney provided an estimate of its staffing needs to support the Commission based on the workload this Office projected for the Commission. These additional City Attorney staff would: 1) provide ongoing general counsel advice to the Executive Director and Commission; 2) advise the Executive Director and their investigators throughout the case intake, investigation and hearing process, and represent the Executive Director at any subsequent writ proceeding; 3) provide separate counsel to a hearing officer during appeal hearings; 4) provide separate counsel to the Commission for further appeals; and, 5) respond to any Writs filed by complainants or respondents

(1)

in Superior Court. The City Attorney estimates that it would require 6.5 full time equivalent positions if FEHA preemption is unchanged and 29 positions if FEHA preemption is removed and enforcement is shifted to local jurisdictions. These estimates do not include leasing costs or other expenses which may be needed to support these additional position authorities. A detailed breakdown of the City Attorney projections for both the preemption and non-preemption scenarios is included in Attachment 5.

Administrative Law Judge and Hearing Officer Costs

This Office utilized information from existing City contracts, the California Department of General Services Office of Administrative Hearings, and the estimated workload to project the potential costs for appeals hearings. These projections include a comparison of the estimated costs for ALJs and hearing officers. Due to a lack of information on the procedures for appeal hearings, the projections are based on the assumption that each appeal hearing would take one hour. Additionally, a range of appeal rates was utilized due to uncertainty regarding the quantity of cases that would be appealed and the lack of available data from other civil and human rights enforcement entities to make a specific projection for an appeals rate assumption. Additional details on the comparison of the estimated costs for ALJs and hearing officers, including the basis for those estimates, are included in Attachment 6.

FISCAL IMPACT STATEMENT

There is no impact to the General Fund as this report is for informational purposes only. Should the Council decide to approve the creation of the Commission and direct the authorization of the listed position authorities in the current fiscal year, funding would need to be identified and require adjustments to existing expenditure appropriations or the allocation of new unbudgeted revenues.

RHL:NSC:02190090C

- Attachment 1: Implementation Cost Estimate for Civil and Human Rights Commission
- Attachment 2: Estimated Caseload for Civil and Human Rights Commission by Protected Class
- Attachment 3: Full-Year Cost Estimate for Civil and Human Rights Commission – Preemption
- Attachment 4: Full-Year Cost Estimate for Civil and Human Rights Commission – Non-Preemption
- Attachment 5: Full-Year Cost Estimates for City Attorney Support of Civil and Human Rights Commission
- Attachment 6: Comparison of Administrative Law Judge (ALJ) and Hearing Officer Cost Estimates

Three-Month Implementation Cost Estimate for Civil and Human Rights Commission

Staffing	Count	Cost
Commission:		
Volunteer Commissioners ²	15	\$ 1,125
Executive and Admin Staff:		
Executive Director ³	1	44,438
Management Analyst	1	21,209
Commission Executive Assistant I	1	16,730
Administrative Clerk	1	12,324
Position Total	4	94,701
Related Costs Estimate⁴		82,466
TOTAL POSITION COST		\$ 178,292

Expenses	Account	Cost
Printing and Binding	2120	\$ 400
Office and Administrative	6010	52,496
Operating Supplies	6020	1,000
Leasing ⁵	6030	-
Equipment	7300	5,580
TOTAL EXPENSE COST		\$ 59,476

GRAND TOTAL		\$ 237,768
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Notes:

- ¹Salary amounts reflect the three-month cost.
- ²Commissioners are estimated to be paid \$25 per meeting and that the Commission would meet once monthly.
- ³Reflects salary range for Executive Officer of Ethics Commission for comparison purposes. The salary for the Executive Director of the Civil and Human Rights Commission will be determined at a later date and the salary shown is for budget planning only.
- ⁴Cost Allocation Plan 41 special rate used to illustrate the City cost for fringe benefits and central services.
- ⁵Reflects anticipation that the Commission will not have separate leasing space within the three-month implementation time frame. Leasing costs estimates included in with full year costs.

Estimated Caseload for Civil and Human Rights Commission by Protected Class

Complaint Category	Preempted by the State ¹	Not Preempted by the State				TOTAL
	Current DFEH Protected Classes ²	Citizenship Status ³	Veteran Status ⁴	Partnership Status ⁵	Employment and Income Status ⁵	
Employment	2,324	218	-	14	168	2,724
Housing	131	13	3	1	10	158
Civil Rights Violations	34	4	2	2	4	46
Disabled Persons Act	2	1	1	1	1	6
TOTAL	2,491	236	58	18	183	2,934

Notes:

¹FEHA preemption clause prevents local enforcement of discrimination complaints in housing and employment related to the following protected classes: Race, color, ancestry, national origin, religion, creed, age, disability, sex, gender, gender identity or expression, sexual orientation, medical condition, genetic information, marital status, and military or veteran status (employment only).

²Based on 2011-2017 average of Department of Fair Employment and Housing cases attributed to LA County and adjusted proportionally for the City based on demographic information from California Employment Development Department and the United States Census Bureau.

³Assumed increase in existing complaints proportional to estimated undocumented share of the City population. Estimate for undocumented population based on information from the Pew Research Center.

⁴Assumed increase in existing complaints proportional to estimated veteran share of the City population. Estimate for veteran population based on information from the United States Census Bureau.

⁵Utilized 2009-2017 data from the New York City Human Rights Commission to calculate the average percent increase in complaints attributable to partnership status and employment and income status discrimination complaints. These average increases were applied to DFEH averages.

Full-Year Cost Estimate for Civil and Human Rights Commission
State Preemption Scenario

Staffing	Count	Cost
Commission:		
Volunteer Commissioners ¹	15	\$ 4,500
Executive and Admin Staff:		
Executive Director ²	1	186,816
Management Analyst	1	89,162
Commission Executive Assistant I	1	70,333
Administrative Clerk	1	51,812
Investigators:		
Special Investigator II ³	1	111,852
Special Investigator I ³	3	260,233
Position Total	8	770,208
Related Costs Estimate⁴		605,538
TOTAL POSITION COST		\$ 1,380,246
Expenses	Account	Cost
Printing and Binding ⁵	2120	\$ 50,800
Contractual Services ⁵	3040	200,000
Office and Administrative	6010	52,496
Operating Supplies	6020	2,000
Leasing ⁶	6030	314,040
Equipment	7300	15,240
TOTAL EXPENSE COST		\$ 434,576
GRAND TOTAL		\$ 1,814,822

Notes:

- ¹Commissioners are estimated to be paid \$25 per meeting and that the Commission would meet once monthly.
- ²Reflects salary range for Executive Officer of Ethics Commission for comparison purposes. The salary for the Executive Director of the Civil and Human Rights Commission will be determined at a later date and the salary shown is for budget planning only.
- ³Special Investigator class shown for budgetary purposes only. The appropriate class and salary amount for Commission investigatory work will be determined at a later a date.
- ⁴Cost Allocation Plan 41 special rate used to illustrate the City cost for fringe benefits and central services.
- ⁵Included a total of \$250,000 for education and outreach program based on the funding amounts used for the Rent Stabilization Outreach Program in 2016-17 for comparison purposes. Includes \$50,000 in Printing and Binding and \$200,000 in Contractual Services.
- ⁶Estimate provided by General Services Department based on CAO staffing projections. Utilized higher range of per square foot lease costs. Figure includes estimate for data network and phone installation. Assumes other necessary tenant improvements will be paid by building owner. Actual leasing costs will be calculated during implementation as the Executive Director and Commission set operational standards and space needs are adjusted based on those standards.

Full-Year Cost Estimate for Civil and Human Rights Commission
No State Preemption Scenario

Staffing	Count	Cost
Commission:		
Volunteer Commissioners ¹	15	\$ 4,500
Executive and Admin Staff:		
Executive Director ²	1	186,816
Senior Management Analyst I	1	102,458
Management Analyst	1	89,162
Commission Executive Assistant I	1	70,333
Administrative Clerk	2	103,624
Investigators:		
Special Investigator II ³	3	335,555
Special Investigator I ³	16	1,387,908
Position Total	25	2,275,856
Related Costs Estimate⁴		1,789,278
TOTAL POSITION COST		\$ 4,069,634

Expenses	Account	Cost
Printing and Binding ⁵	2120	\$ 52,500
Contractual Services ⁵	3040	200,000
Office and Administrative	6010	275,604
Operating Supplies	6020	6,250
Leasing ⁶	6030	345,980
Equipment	7300	77,520
TOTAL EXPENSE COST		\$ 757,854
GRAND TOTAL		\$ 4,827,488

Notes:

¹Commissioners are estimated to be paid \$25 per meeting and that the Commission would meet once monthly.

²Reflects salary range for Executive Officer of Ethics Commission for comparison purposes. The salary for the Executive Director of the Civil and Human Rights Commission will be determined at a later date and the salary shown is for budget planning only.

³Special Investigator class shown for budgetary purposes only. The appropriate class and salary amount for Commission investigatory work will be determined at a later a date.

⁴Cost Allocation Plan 41 special rate used to illustrate the City cost for fringe benefits and central services.

⁵Included a total of \$250,000 for education and outreach program based on the funding amounts used for the Rent Stabilization Outreach Program in 2016-17 for comparison purposes. Includes \$50,000 in Printing and Binding and \$200,000 in Contractual Services.

⁶Estimate provided by General Services Department based on CAO staffing projections. Utilized higher range of per square foot lease costs. Figure includes estimate for data network and phone installation. Assumes other necessary tenant improvements will be paid by building owner. Actual leasing costs will be calculated during implementation as the Executive Director and Commission set operational standards and space needs are adjusted based on those standards.

Full-Year Cost Estimates for City Attorney Support of Civil and Human Rights Commission

Staffing	State Preemption		No State Preemption	
	Count ¹	Cost ³	Count ¹	Cost ³
Deputy City Attorney IV	1	\$ 211,416	1	\$ 211,416
Deputy City Attorney II (Investigator Support)	2.5	349,793	15	2,098,755
Deputy City Attorney II (Hearing Officer Support)	0.5	69,959	2	279,834
Deputy City Attorney II (Commission Support)	0.5	69,959	1	139,917
Paralegal	1	75,359	5	376,795
Legal Secretary II	1	73,373	5	366,865
Related Costs Estimate²		343,010		1,436,003
POSITION TOTAL	6.5	\$ 1,192,869	29	\$ 4,909,585

Notes:

¹Reflects an estimated caseload of 200 cases handled annually by each Deputy City Attorney II providing support to investigators.

²Includes estimated cost for fringe benefits only.

³Estimate does not include leasing or other expense costs related to these position authorities.

Comparison of Administrative Law Judge (ALJ) and Hearing Officer Cost Estimates:

	State Preemption		No State Preemption	
	1/6th Appeal Rate ³	1/3rd Appeal Rate ³	1/6th Appeal Rate ³	1/3rd Appeal Rate ³
ALJ	\$ 108,940	\$ 218,140	\$ 514,280	\$ 1,028,820
Hearing Officer	80,340	119,340	246,480	451,620
Estimated Savings from Utilizing Hearing Officer	\$ 28,600	\$ 98,800	\$ 267,800	\$ 577,200

Estimation Cost Factors:

Cost Category	Cost
ALJ ⁴	\$295 per hour
Staff Counsel ⁴	\$280 per hour
Filing Fee ⁴	\$100 per case
Hearing Officer ⁵	\$800 per hearing session
Hearing Reporter ⁶	Full day appearance fee (3+ hours)
	Half day appearance fee (1-3 hours)
Transcription ⁶	Transcribed in 2-5 days at \$7.50 per page

Notes:

¹ Assumed one case heard per hour

² Assumed hearings are held weekly for 52 weeks of the year based on assumption of 261 working days.

³ Reflected 1/6th and 1/3rd appeal rates to illustrate a potential range for the frequency that cases could be appealed.

⁴ Used California Department of General Services Office of Administrative Hearings 2019-20 prices

⁵ Used cost factors from fee schedule attached to Housing and Community Investment Department contract with Beth Rosen-Prinz (C-131882). Assumed one hearing session is 8 hours.

⁶ Used cost factors from the fee schedule attached to City Attorney contract with Kennedy Court Reporters (C-127829)

⁷ Assumed 30 transcribed pages per hour based on: 125 words per minute, 7500 words per hour. 250 words per page.

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Honorable Members of the City Council
c/o Holly L. Wolcott, City Clerk
200 N. Spring Street, Room 395
Los Angeles, CA 90012

June 19, 2015

Honorable Members:

**BUREAU OF CONTRACT ADMINISTRATION – OFFICE OF LABOR STANDARDS
IMPLEMENTATION PLAN AND RESOURCE REQUIREMENTS (COUNCIL FILES
14-1371-S1 AND 09-2642)**

Provided for your consideration is the Bureau of Contract Administration's (BCA's) implementation plan and resource requirements for an Office of Labor Standards (OLS).

BACKGROUND

On May 19, 2015, the City Council (Council) considered several reports relative to the establishment of a minimum wage in the City of Los Angeles and creation of an Office of Labor Standards to enforce the minimum wage and address wage theft (Council Files 14-1371, 14-1371-S1, 14-1371-S2, and 09-2642). The Council's actions on this day included instructing the BCA to provide a report addressing the following:

- Establish an implementation plan for the OLS. Such a plan will address enforcement mechanisms modeled on the San Francisco Labor Standards Division.
- Develop partnerships with local public interest groups and legal entities and/or bar associations. These partnerships will play a key role in a basic public outreach plan.
- Identify the staffing requirements and resources necessary to implement the plan.

On June 3, 2015, the Council voted to formally enact the Minimum Wage (MW) and Wage Enforcement Division (WED) ordinances and designated the BCA as the agency responsible for administration and enforcement.

STAFFING AND RESOURCES FOR IMPLEMENTATION

BCA anticipates this program will need approximately thirty-nine (39) positions, with the appropriate space allocation, and an outreach plan allowance of \$2.1 million to successfully administer a plan that addresses the elements in the recently signed ordinances. The positions and allowance will be phased in over four years to cover the expected workload demand.

To develop this response, BCA, in addition to using its own experience as a State Certified Labor Compliance Program, and as the Designated Administrative Agency responsible for the City’s Living Wage Ordinance, also:

- Consulted with representatives from the City of San Francisco’s Office of Labor Standards Enforcement, the City of Seattle’s Office of Labor Standards, the State of California’s Division of Labor Standards Enforcement (DLSE), the Office of the City Attorney, and several Community-Based Organizations (CBOs) to discuss best practices.
- Examined information contained in the two March 2015 reports: “Los Angeles Rising: A City That Works for Everyone,” by the Economic Roundtable UCLA Labor Center – UCLS Institute for Research on Labor and Employment (Economic Roundtable) and “The Proposed Minimum Wage Law for Los Angeles: Economic Impacts and Policy Options,” by the Institute for Research on Labor and Employment – University of California, Berkeley (Berkeley).
- Considered the elements contained in the recently-submitted ordinances by the City Attorney, establishing a Minimum Wage for employees and creating a Wage Enforcement Division.

PROGRAM DEVELOPMENT AND OVERVIEW

The BCA envisions a plan that focuses on four key components for success:

- Inform the Community
- Intake Concerns
- Investigate Complaints
- Implement Corrective Actions.

This plan presents a fair enforcement and educational approach that maximizes information flow, minimizes resolution time, and monitors effectiveness to ensure a proper response to the concerns raised in these ordinances.

INFORM THE COMMUNITY

The MW and WED ordinances will impose new employee compensation requirements and potential monetary penalties on employers; therefore, effective compliance will depend on a thorough information campaign at the earliest possible stage. Focusing resources up front to inform employers of their obligations and employees of their rights will establish an environment that facilitates success.

Effective compliance demands that employers and employees know the following:

- The required minimum wage amount.
- When mandatory wage increases occur.
- How to qualify as a Small Business or Non-Profit Organization.
- What constitutes a potential wage theft violation (e.g., overtime, meal and rest breaks).
- When compliance must occur and the consequences for non-compliance.

Outreach Strategy

This effort will require, at a minimum, the following multi-faceted strategy:

- A. Develop an accessible, multi-lingual website that informs employers of their obligations and employees of their rights and provides a portal to submit wage-related complaints or concerns.

In addition to providing a method for the instant submission of wage complaints, this website will provide information such as wage schedules and “Frequently Asked Questions” in English, Spanish, and a variety of other languages as identified in the Los Angeles WED ordinance (the City of San Francisco provides information in every language that represents over 5% of the working population).

This website will also enable BCA staff to track inquiries and complaints in real time so that data is readily available for the City’s open data initiative.

The City of Seattle developed a robust website as part of its minimum wage and wage theft program roll out. Seattle allocated a systems staff person exclusively during the nine month roll out period to establish the website. The State’s DLSE also recently created a stand-alone bi-lingual website dedicated to providing wage theft information.

- B. Engage Community-Based Organizations (CBOs) to do outreach.

The cities of San Francisco and Seattle, and the State DLSE, all recognize the necessity of utilizing existing grassroots networks available through CBOs, particularly to reach low-income and immigrant populations who may be otherwise fearful and reluctant to come forward with wage complaints. San Francisco began contracting with community-based workers’ rights organizations in 2007. Their effort was so successful that the Board of Supervisors increased the annual funding for the CBO budget from \$186,500 to \$482,125 in Fiscal Year 2013.

San Francisco utilizes CBOs with cultural and linguistic expertise to help identify and resolve wage complaints, provide workshops and one-on-one consultations with employees, and conduct media events. These worker rights organizations can also identify industries and locations where violations are rampant so that the BCA can more effectively target its educational campaigns and enforcement resources. The San Francisco CBO contract includes minimum performance requirements. For example, the contractors must refer at least 70 complaints per year, provide 195 workers’ rights

consultations per year, perform direct personal outreach to 3,500 workers per year, and hold four media events each year to publicize success stories.

San Francisco’s contract is \$482,125 per year. Seattle has a budget of \$500,000 per year. The City of Los Angeles’ estimated workforce is four times that of San Francisco and five times that of Seattle.

The Berkeley report also recognized contracts with CBOs as an effective tool in education and enforcement efforts. In particular, the report highlighted the ability of CBOs to utilize their linguistic, cultural, and industry expertise to bolster enforcement in three key ways: educating workers about their rights, building trust between workers and investigators, and providing knowledge of the relevant dynamics of particular industries.

- C. Mail critical wage-related information to all businesses registered with the Office of Finance.

Periodic mailings, such as at the beginning of the program and prior to each annual wage increase, will be necessary to clearly inform employers of their obligations to maximize compliance. The Office of Finance typically utilizes a postcard mailing process to inform the approximately 170,000 active registered businesses of tax requirements. Similarly, the City of San Francisco mails roughly 43,000 notices each year to inform employers of wage rate increases and distributes posters that employers must post in each place of employment to inform employees of their rights to minimum wage and wage theft protection.

The BCA plans to utilize a postcard mailing campaign to provide information, comparable to that provided by San Francisco’s mailers, and will include the web address to the BCA website where employers can print out posters and access additional information.

- D. Use alternative means of advertising and outreach for employees in harder to reach communities.

This educational campaign should also distribute information in ways that are accessible to communities of workers that may not utilize traditional media. For example, resources should be allocated for the strategic placement of notices in ethnic publications and community papers, and in locations frequented by low wage workers including public busses. Seattle, which just completed its initial information campaign, utilized newspaper and radio advertisements. San Francisco’s OLSE found bus posters to be a successful outreach method, while public service announcements, merchant walks, and advertisements in bus shelters were not particularly effective. Seattle’s roll out/public relations budget was \$100,000 for a workforce that is estimated to be 20% the size of Los Angeles’.

Rolling out this new program will require a strategic approach that aims to inform as many employees and employers as possible across all industries and geographic locations. The BCA will regularly assess this strategy to ensure resources can be reallocated for maximum effectiveness.

Development of Informational Materials

Staff will develop materials that inform employers and employees to promote compliance. Key materials will include “Rules and Regulations,” compliance forms, and posters and advertisements.

Inquiries from the Public

Prior to and immediately following the effective date of the minimum wage increase, it will be essential to have staff available to answer questions and provide clarification to employees, CBOs, and employers. The City of Seattle, which implemented its minimum wage program on April 1, 2015, received almost 650 inquiries in the nine months preceding the effective date, and 183 inquiries in the month after the new minimum wage took effect. According to the interim director, these calls (and the associated research) were instrumental in helping shape their rules, outreach materials, and “Frequently Asked Questions.” The Los Angeles workforce is roughly five times that of Seattle. Due to this size disparity, the BCA could encounter over 4,000 inquiries in the ramp up period and over 900 calls per month after start up. Having adequate staff to respond to these inquiries will ensure that employers can access the information they need to comply with new wage requirements that become effective on July 1, 2016.

Anticipated Performance Metrics

- Number of inquiries received each month (broken out by source – online, telephone, email, etc. – as well as industry sector and geographic location).
- Number of employers informed by mail.
- Number of community events attended.

INTAKE CONCERNS

The BCA will implement a transparent, accessible communication submission system that allows employees or employers to submit complaints or concerns in a variety of languages and methods.

Inquiries from the Public

The following represents a few options to facilitate efficient intake of complaints or concerns:

- Online complaint form on the BCA website that can be submitted at a minimum in English or Spanish. Available resources will determine the number of additional languages the system will accommodate for online complaints or concerns.
- A dedicated e-mail address that employees or employers can utilize to submit complaints, questions, or feedback.
- A downloadable form available on the BCA website and in various City office locations that can be filled out and submitted in person, by mail, or by fax to the BCA.
- CBOs will assist in locating potential violators and submitting wage complaints on their behalf. The Berkeley report highlighted that in Fiscal Year 2013-14, San Francisco’s

OLSE collected more in back wages and interest from cases filed with CBOs than from those generated by direct employee complaints.

- A supplemental wage monitoring program, modeled after the BCA’s existing Joint Labor Compliance Monitoring Program, will enable community members (who are trained and badged by the BCA) to conduct employee interviews and identify potential wage violations for review by the BCA.

The BCA plans to consider anonymous written complaints, particularly due to rampant fears of employer retaliation. However, San Francisco’s OLSE conveyed a strong preference for written complaints signed under penalty of perjury for two key reasons: written complaints are vital during hearings and trials, and investigations rely heavily on the presence of employees who can act as insiders in gathering information. BCA will periodically review this approach to assess the effectiveness of anonymous complaints.

Non-Profit Deferrals

The BCA will develop a list of documents that will enable a non-profit to provide evidence that it satisfies certain salary criteria, provides transitional employment opportunities, provides child care services, or is funded primarily by government grants or reimbursements. These documents would only be required if a complaint is filed.

Anticipated Performance Metrics

- Percentage of complaints acknowledged in writing within one working day.
- Number of complaints received.
- Number of inquiries received.

Necessary Resources for Year 1

- One new position authority and funding in the BCA, with the appropriate work space allocation, to supplement the five (5) position authorities with funding that were approved in the FY 2015-16 budget. These positions will develop informational materials, draft Rules and Regulations and procedural manuals, develop compliance forms and other documents, write and implement a community outreach RFP and contract, coordinate a mailing campaign, respond to inquiries from the public, and develop and maintain an informational website and an internal database for managing cases and tracking data, and validate the criteria necessary to qualify as a small business or non-profit. The positions are detailed in the Recommendations section of this report.
- Two (2) new position authorities and funding in the Office of the City Attorney with the appropriate work space allocation, to provide extensive legal support and interpretation of the new law. These positions will be required ongoing.
- Public relations, technology, and advertising budget of \$200,000 per year.
- Technology (hardware and software) necessary to establish a healthy database and communications system.

INVESTIGATE COMPLAINTS

The BCA will employ multiple strategies, both proactive and complaint-driven, to identify and remedy violations of the new ordinances.

Investigation Process

The BCA will follow the investigation model implemented successfully in San Francisco. Complaints will be acknowledged in writing within one working day and staff will conduct a site visit at the place of business within three working days. This site visit will include employee and employer interviews, observations, and an audit of relevant documentation including payrolls, time cards, and employer policies.

A “Request for Information” letter, if necessary, will be sent to secure additional documentation not available during the site visit, such as payrolls or time cards. The employer will have 10 working days to respond. Requests may also be made to employees to provide supporting documentation such as time cards, pay stubs, or work hour logs. Documents will be accepted through a variety of methods including mail, fax, or electronic means.

Additional investigation activities will occur as appropriate, including return visits to the work site, monitoring employee work schedules, records analysis, and follow up interviews. Although it’s anticipated that the bulk of the investigation activities will be performed by the BCA staff, some investigations may require assistance from the City Attorney’s Office. Furthermore, some cases may benefit from the involvement of CBOs, particularly in areas such as translation, collecting information from employees, and interviewing employees for hearings or trials.

Targeted Audits

Although San Francisco currently operates a complaint-driven program, the DLSE performs proactive audits usually targeting specific industries or geographic areas. The City of Seattle will be relying on complaints initially but then plans to implement a strategic approach to proactive audits. In order to be as effective as possible, the City of Los Angeles will ultimately implement a proactive enforcement approach by utilizing targeted audits of industry sectors or employers with high rates of non-compliance. The Berkeley report noted that complaint-driven enforcement is less effective than targeted investigations and that many government agencies, including the Department of Labor, are increasing their targeted audits and focusing on key industries.

Investigator Workload

The Economic Roundtable report emphasized that Los Angeles has the highest rate of wage theft in the country. According to the report, thirty percent of low wage employees receive less than the minimum wage in any given week. That percentage may increase when the City’s minimum wage becomes effective and employers must respond to higher wage costs.

The Berkeley report stated that local employment conditions, such as the number of low wage workers, are important when determining the appropriate staffing level for wage theft enforcement. San Francisco’s complaint-driven approach to investigations currently utilizes 5.5 investigators for an estimated workforce of 611,333. A proportional comparison to Los Angeles’ workforce size would place the BCA staffing, for a complaint-driven approach, in the range of

13 - 23 investigators, depending on the workforce estimate used (analysts, clerical, legal support, and management staff are not represented in this discussion).

However, the Berkeley report highlighted that San Francisco has a lower concentration of low-wage employees. Taking into account the high concentration of low-wage employees in Los Angeles, and the projected number of employees that will directly benefit from an increase in the minimum wage (and, therefore, be most vulnerable to wage theft); the Berkeley report suggests that 25 investigators are required to provide enforcement activities comparable to those performed in San Francisco.

The BCA's staffing plan includes 19 investigator positions. This number may increase based on actual workload.

NOTE: There is currently a proposed bill (AB 970) in the state legislature that will provide the State DLSE with the authority to enforce local minimum wage laws. The legislation does not include a mechanism for funding this additional workload and the DLSE appears to be at full capacity with its current workload.

Anticipated Performance Metrics

- Percentage of investigations completed within one year. (Note that this is based on San Francisco's goal to complete all investigations within one year). Community-Based Organizations that were consulted agreed that this is an appropriate goal.

IMPLEMENT CORRECTIVE ACTION

Corrective action represents steps to resolve a complaint and can take a variety of forms. The BCA will work with the employee and employer to achieve full restitution of ANY unpaid wages, plus interest and penalties.

Determination, Penalties and Hearing Process

The BCA will, when necessary, issue administrative citations that articulate the reason for the violation and the required corrective action. Employers have ten days (with an extension of up to twenty-one days, at BCA's discretion) to appeal and/or remedy the violation.

Employers have the option to appeal the citation and pursue an administrative hearing. The hearing officer's decision is final and may uphold part or all of the citation and penalties.

The WED Ordinance outlines a menu of penalties and enforcement options available to achieve compliance, including penalties and interest paid to the employee, fines paid to the City, revoking police permits, liens, and penalties for violating administrative requirements such as allowing access to payroll records. This strategy is in line with the recommendation in the Economic Roundtable report that identifies ten different enforcement best practices; nine of those ten have been incorporated into the ordinance.

The BCA will establish procedures for assessing and collecting these various monetary penalties and for coordinating the administrative hearing process.

The BCA will need assistance from the City Attorney’s Office, which will review and criminally and administratively prosecute cases brought by the new WED staff, negotiate settlement agreements with employers as part of compliance actions, and represent the City in Superior Court cases brought by employers appealing the City’s administrative hearing decisions.

It is expected that there will be a significant increase in the volume and complexity of wage-related cases that are generated and referred to the City Attorney’s Office. These cases are document intensive, often require accounting expertise, and demand extensive follow-up with witnesses and victims. Cases may include prevailing wage violations, wage theft, failure to pay minimum wage, failure to pay unemployment and workers compensation insurance.

In addition to new cases generated by the BCA, the City Attorney’s Office will continue to have cases referred for prosecution to them by the U.S. Department of Labor, the California Department of Labor Standards Enforcement and the City’s Office of Contract Compliance. These cases may be prosecuted in one of two ways:

- Civil enforcement actions pursuant to California Business & Professions code section 17200 which allege a pattern or practice of illegal or unfair business practices.
- Misdemeanor prosecution for illegal conduct, typically by individuals.

Anticipated Performance Metrics

- Number of cases that go to administrative hearing
- Amount of penalties collected
- Amount of wage restitution collected

Necessary Resources for Years 2 through 4

- Twenty-three (23) additional positions in the BCA, with the appropriate work space allocations, to address complaints, investigate potential wage theft infractions, oversee the administrative hearings, and assist in assessment and collection of back wages and penalties. The positions are detailed in the Recommendations section of this report.
- Eight (8) positions in the City Attorney’s Office with the appropriate work space allocations, to provide legal support and enforcement of wage theft violations. The positions are detailed in the Recommendations section of this report.

NOTE: All requests for position authorities and funding are subject to change based on actual workload.

RECOMMENDATIONS

- A. Approve, in concept, this implementation plan for the Minimum Wage and Wage Enforcement Division Ordinances.

- B. Authorize position authority and funding (effective July 1, 2015) to supplement the existing five position authorities and funding provided in the FY 15-16 budget, as outlined below:

July 1, 2015 through June 30, 2016

Department	Qty	Classification	Class Code
PW-Contract Administration	1	Senior Systems Analyst I	1597-1
Office of City Attorney	1	Deputy City Attorney III	0535
Office of City Attorney	1	Paralegal II	0577

- C. Authorize, in concept, employment authority for thirty-one (31) additional positions in the Bureau of Contract Administration and the Office of the City Attorney, to be phased in over three fiscal years, as outlined below:

July 1, 2016 through June 30, 2017

Department	Qty	Classification	Class Code
PW-Contract Administration	2	Senior Management Analyst I	9171-1
PW-Contract Administration	5	Management Analyst II	9184-2
PW-Contract Administration	1	Management Analyst I	9184-1
PW-Contract Administration	2	Senior Clerk Typist	1368
Office of City Attorney	2	Deputy City Attorney III	0535
Office of City Attorney	1	Legal Secretary I	0580

July 1, 2017 through June 30, 2018

Department	Qty	Classification	Class Code
PW-Contract Administration	1	Senior Management Analyst I	9171-1
PW-Contract Administration	4	Management Analyst II	9184-2
PW-Contract Administration	2	Management Analyst I	9184-1
PW-Contract Administration	1	Senior Clerk Typist	1368
Office of City Attorney	2	Deputy City Attorney III	0535
Office of City Attorney	1	Paralegal II	0577
Office of City Attorney	1	Legal Secretary II	0581

July 1, 2018 through June 30, 2019

Department	Qty	Classification	Class Code
PW-Contract Administration	3	Management Analyst II	9184-2
PW-Contract Administration	2	Management Analyst I	9184-1
Office of City Attorney	1	Deputy City Attorney III	0535

- D. Authorize, in concept, a Community Outreach budget of \$700,000 each year for a total of \$2.1 million for the period July 1, 2016, through June 30, 2019.
- E. Authorize, in concept, an advertisement, public relations, and technology budget of \$200,000 each year for a total of \$600,000 for the period of July 1, 2016, through June 30, 2019. This appropriation will maintain the funding of \$200,000 provided in the FY 15-16 budget.

- F. Request the General Services Department work with the Bureau of Contract Administration to identify space needs at the Public Works Building for the BCA staff increase.

- G. Change the name of the Wage Enforcement Division to the Labor Standards Enforcement Division.

Sincerely,



JOHN L. REAMER, JR., Director
Bureau of Contract Administration

Bureau of Contract Administration

Contract Compliance

Program Changes	Direct Cost	Positions	Total Cost
Changes in Salaries, Expense, Equipment, and Special			
Increased Services			
25. Office of Wage Standards Support	2,400,000	-	3,118,499
<p>Continue funding and resolution authority for four Management Analyst IIs. Add funding and resolution authority for one Senior Management Analyst II. Add ten-months funding and resolution authority for two Senior Management Analyst Is, seven Management Analyst Is, one Senior Systems Analyst I, and two Senior Administrative Clerks. Add six-months funding for one Senior Management Analyst I and four Management Analyst Is. Position upgrades are subject to pay grade determination by the Office of the City Administrative Officer, Employee Relations Division. Add funding in the Salaries Overtime (\$35,000), Contractual Services (\$766,766), Office and Administrative (\$141,313) and Operating Supplies (\$1,475) accounts to support the new minimum wage and wage theft enforcement programs. One Contract Compliance Program Manager I is replaced by one Senior Management Analyst II and is not continued. See related Office of the City Attorney item. Related costs consist of employee benefits.</p> <p>Subsequent to the release of the Mayor's Proposed Budget, the Office of the City Administrative Officer, Employee Relations Division denied the requested pay grade upgrade of one Senior Management Analyst I to Senior Management Analyst II and approved the requested pay grade upgrade of eight Management Analyst Is to Management Analyst IIs. SG: \$1,457,446 SOT: \$33,000 EX: \$909,554 Related Costs: \$718,499</p>			
TOTAL Contract Compliance	<u>2,013,496</u>	<u>2</u>	
2015-16 Program Budget	4,507,231	27	
Changes in Salaries, Expense, Equipment, and Special	2,013,496	2	
2016-17 PROGRAM BUDGET	<u>6,520,727</u>	<u>29</u>	